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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,156	05/06/2004	Joseph D. La Scola	Internet Photonics 4	7411
21919	7590	08/03/2006	EXAMINER	
MEREK, BLACKMON & VOORHEES, LLC 673 S. WASHINGTON ST. ALEXANDRIA, VA 22314			TRINH, MINH N	
			ART UNIT	PAPER NUMBER
			3729	

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/840,156	<b>Applicant(s)</b> LA SCOLA, JOSEPH D.	
	<b>Examiner</b> Minh Trinh	<b>Art Unit</b> 3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "32" has been used to designate both jaws and handle (see Fig. 2), further, ref no. 34 and B are missing from the Fig. 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: "Tool for connector" or the like.

### ***Specification***

3. The disclosure is objected to because it is inconsistent with the drawings and lacking of details about element A, B, C of claims 1-5, and others such as subject matter as recited in claim 6, etc. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to whether “element A “(claim 1, line 7) is a part of the claimed puller or apart of the associated connector as shown in Fig. 1.

Also, it is not clear as what being referring to as: “element A” and/or “jaw A”(see claim 1, lines 7-8) and whether they are directed as to the same element?.

Further, the scope of claims 4, 6-8 is not clear because claims directed to a puller but not the outside elements associate with the claimed tool or puller such as plug, conductive, etc., as recited in the above claims.

It is not clear as to what being referring as “the handle of element A . . . and the handle element B” (see claim 9, lines 2-11) since the drawings is not shown and the specifications is silent about them.

What being referring “jaw of element B and/or jaw element A” as recited in claims 10-13. Note that either the drawings or specification shows or describes the features.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1, 2, 5 and 11-13 as best understood are rejected under 35 U.S.C. 102(a) as being anticipated by Kang (US 6,389,937).

Kang discloses a tool as puller comprising elements 30 and 40 that are joined about a pivot axis to form a pliers-type puller tool with a pair of jaws 3, 4 to one side of the pivot axis and a pair of handles to an opposite side of said pivot axis, each of said jaws having a tip at a distal end, away from said pivot axis, and the pliers-type puller is adapted to open and close said jaws by moving said handles toward, or away from, a pull-push axis extending perpendicularly to said pivot axis, respectively, the improvement comprising: a tooth 30 at the tip of the distal end of the jaws of element 30; and a first accommodation space in jaw following said tip, toward said pivot axis (see Figs. 2-3 which depict the above configurations). Noting reference 30-40 represented the claimed A and B portion of the present invention's claims.

As applied to claims 2 and 5, (see Figs. 2-3, depict the configurations of these claims where 3 and 4 are perpendicular to the pull push axis similar to that as recited in claim 2, further, the tool of the Kang reference is capable for accommodate a coupler element as wings. Note that "is adapted to"(claim 5 is functioning limitations and it appears that the prior art to Kang is capable of performing such since it has met every structure limitations.

As applied to claim 11-13, the Kang reference shows that at least a portion of the jaws member are unsmooth and having a tooth and being in form of an extension, etc., (see Figs. 1-5).

***Claim Rejections - 35 USC § 103***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 3, 4 6-8, 9-10 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Kang.

As applied to claims 3, 4 and 10, Kang is silent about the aspect ratio as recited in claim 3 and shape of claim 4. However, it would have been an obvious matter of design choice to choose any desired aspect ratio i.e., depth of channel versus distant C and size and shape, etc since applicant has not disclosed that these features are critical, patentably distinguishing features and it appears that the invention would perform equally well with the channel depth and distant C configurations and the

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substantially U shape channel configurations as shown in the prior art reference (see Kang's Figs. 2-5).

As applied to claims 6-9, since there are a great deal of confusion and uncertainty as to the proper interpretation of the limitations of the above claims. Therefore, claims 6-10 as best understood are also met by the combination teachings of Kang in view of Steinweg (similar to the above discussion). Note that the scope of these claims is not clear because claims directed to a tool and not the combination and functions of how the tool being used with its associated plug or signal connector as recited in these claims (i.e., see claim 6, lines 5-7, and that as recited in claims 7-9).

Limitation of claim 10 is also met as set forth above.

10. Claim 13 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Kang in view of Steinweg (US 6347565).

If argues that Kang does not teach limitation of claim 13, the Steinweg reference discloses that (see Figs. 4-22, which shows a wide range of selection extension tip for the tool). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the Steinweg teaching above onto the Kang invention in order to use the tool with different type of work pieces, etc.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (571) 272-4569. The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mt  
7/26/06



MINH TRINH  
PRIMARY EXAMINER